

U.S.S.N. 10/079,985
G.A.U. 2818**REMARKS**

In this Response, Applicant amends claims 1, 7, 14, 50, and 51 and traverses the Examiner's rejections. Amendments to the claims should not be construed as acquiescence to any of the rejections. Rather, amendments to the claims are being made solely to expedite prosecution of the instant application. Silence with regard to any of the Examiner's rejections should not be construed as acquiescence to any of the rejections. Specifically, silence with regard to any of the rejections of the dependent claims that depend from an independent claim considered by Applicant to be allowable based on the Amendment and/or Remarks provided herein should not be construed as acquiescence to any of the rejections. Rather, silence should be construed as recognition by the Applicant that the previously lodged rejections are moot based on the Amendment and/or Remarks submitted by the Applicant relative to the independent claim from which the dependent claims depend. Applicant reserves the option to further prosecute the same or similar claims in the instant or a subsequent application. Upon entry of the Amendment, claims 1-69 are pending in the present application.

Telephone Interview

Applicant acknowledges with appreciation the Examiner's courtesy in conducting a telephone interview with the Applicant's Attorney on August 26, 2003. During the interview, the Examiner and the Applicant's Attorney discussed the Applicant's intention that the originally claimed actuator be interpreted as a MEMS actuator, the Applicant's claimed subject matter, the cited prior art reference to Wilde, and the Amendment provided herein.

Allowed Claims

Applicant acknowledges with appreciation the Examiner's allowance of claims 64-69.

With reference to the Examiner's Statement of Reasons for Allowance, Applicant notes that only claims 64-67 include the cited "a second actuable element[], a second MEMS actuator ..., [and] a second cantilever," while only claims 68-69 include the cited "an electromagnetic MEMS actuator comprising an electrically conductive coil." Applicant therefore interprets the references in the present Statement to "a second actuable element ... a second cantilever" to refer only to claims 64-67, and not also to claims 68-69. Similarly, Applicant interprets references in

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the present Statement to "an electromagnetic MEMS actuator ... coil" to refer only to claims 68-69, and not also to claims 64-67.

Amendments to the Claims

Applicant amends claims 1 and 50 to make more explicit Applicant's intention that the originally claimed actuator be interpreted as a MEMS actuator.

Applicant amends claims 7, 14, and 51 to make these claims consistent with the presently amended claims on which they depend.

Support for the amendments to the claims can be found throughout the originally filed application. The amendments to the claims thus do not provide new matter.

Claim Rejections

The Examiner rejected claims 1-2 under 35 U.S.C. § 102(b) as being anticipated by Wilde and claims 3-69 under 35 U.S.C. § 103(a) as being unpatentable over Wilde.

Applicant's independent claims 1 and 50 are directed to MEMS devices. Among other things, Applicant's independent claims 1 and 50 include a substrate, an actuable element, and a *MEMS actuator* disposed on the substrate for selectively applying a force to the actuable element.


As the Applicant's Attorney explained during the Telephone Interview and as noted in the Examiner's Statement of Reasons for Allowance of claims 64-69, "[n]one of the references of record teaches or suggests ... *an electromagnetic MEMS actuator*." (Emphasis provided by Applicant.)

Applicant considers that the present *MEMS* feature of Applicant's claimed actuator was apparent in originally filed independent claims 1 and 50 given the MEMS recitation in the preamble of those claims. As previously provided herein, Applicant amends independent claims 1 and 50 to make the *MEMS* feature of Applicant's claimed actuator more explicit. Accordingly, Applicant now submits that Wilde clearly does not teach the feature of Applicant's claims 1 and 50 that include a *MEMS actuator*.

Applicant therefore requests that the Examiner reconsider her rejections of independent claims 1 and 50 and allow those claims. Applicant also requests reconsideration and allowance of claims 2-49 and 51-63, which depend from independent claims 1 and 50.

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Applicant considers the Response provided herein to be fully responsive to the present Office Action. Based on the foregoing Amendment and Remarks, Applicant considers the present application to be allowable. Accordingly, Applicant requests allowance. Applicant invites the Examiner to contact the undersigned Attorney if issues are deemed to remain prior to allowance.

Respectfully submitted,
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